

JAN 05 2010

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA

Case No. 7:05-cr-00060-1

v.

2255 DISMISSAL ORDER

MARTY BROWN,
Petitioner.

By: Hon. James C. Turk
Senior United States District Judge

For the reasons stated in the accompanying memorandum opinion, it is hereby

ORDERED

that petitioner's motion (docket #135) is **CONSTRUED** as a motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255; the Clerk shall **OPEN** a new action for this § 2255 motion; this new action is **DISMISSED without prejudice** as a successive § 2255 motion, and the case is **STRICKEN** from the active docket of the court.

The Clerk is directed to send copies of this order and the accompanying memorandum opinion to petitioner and to counsel of record for the United States.

ENTER: This 5th day of January, 2010.

[Signature]

Senior United States District Judge